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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MCKELVEY, TERRY ALAN

ART UNIT PAPER NUMBER

1636

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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504

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Commissioner for Patents

The amendment filed on 2/25/04 amending all claims drawn to the elected invention to become claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because of the following reasons.

The invention of elected and examined Group I, claims 1-5, are classified in class 514, subclasses 1 and 12. The invention of claims 1 and 4 as amended by the amendment filed 2/25/04 (instantly designated as Group V) are classified as class 435, subclass 375. The inventions are distinct, each from the other because of the following reasons. Inventions of elected and examined Group I (claims 1-5) and Group V (claims 1 and 4) are biologically and functionally different and distinct from each other and thus one does not render the other obvious. The methods of Group I and Group V comprise steps which are not required for or present in the methods of the other groups: overexpression of Smad1 in an individual (Group I) and overexpressing Smad1 in osteoblast precursor cells in vitro (Group V). The end result of the methods are different: an individual which has stimulated bone formation (Group I) and in vitro osteoblasts (Group V). Thus, the operation, function and effects of these different methods are different and distinct from each other. Therefore, the inventions of these different, distinct groups are capable of supporting separate patents. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Certain papers related to this application may be submitted to Art Unit 1636 by facsimile transmission. The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 C.F.R. § 1.6(d)). The official fax telephone number for the Group is 703-872-9306. NOTE: If Applicant does submit a paper by fax, the original signed copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers in the Office. Any inquiry concerning rejections or other major issues in this communication or earlier communications from the examiner should be directed to Terry A. McKelvey whose telephone number is (571) 272-0775. The examiner can normally be reached on Monday through Friday, except for Wednesdays, from about 7:30 AM to about 6:00 PM. A phone message left at this number will be responded to as soon as possible (i.e., shortly after the examiner returns to his office). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Remy Yucel can be reached on (571) 272-0781. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Terry A. McKelvey
TERRY MCKELVEY
PRIMARY EXAMINER